

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

PETRO INDUSTRIAL SOLUTIONS, LLC, )  
)  
Plaintiff, )  
)  
vs. ) Case No. 1:21-CV-00312  
)  
ISLAND PROJECT AND OPERATING )  
SERVICES, LLC; VITOL US HOLDING )  
II CO.; VITOL VIRGIN ISLANDS )  
CORP.; ANDREW CANNING; and OPTIS )  
EUROPE, LTD., )  
)  
Defendants. )

THE VIDEOTAPED ORAL DEPOSITION OF

PETRO INDUSTRIAL SOLUTIONS, LLC

as a 30(b)(6) witness through its representative, ADRIAN MELENDEZ, JR., also taken personally, on the 28th day of April, 2023, at the Law Offices of Beckstedt & Kuczynski, LLP, 2162 Church Street, Christiansted, St. Croix, U.S. Virgin Islands, and via Zoom teleconference, between the hours of 9:45 a.m. and 4:45 p.m., pursuant to Notice and Federal Rules of Civil Procedure.

Reported by:

Susan C. Nissman RPR-RMR  
Registered Merit Reporter  
Caribbean Scribes, Inc.  
1244 Queen Cross Street, Suite 1A  
Christiansted, St. Croix  
U.S. Virgin Islands 00820  
(340) 773-8161

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1                   **THE VIDEOGRAPHER:** In the matter of Petro  
2 Industrial Solutions, LLC, the plaintiff, versus Island  
3 Project and Operating Services, LLC; Vitol U.S. Holding II  
4 Company; Vitol Virgin Islands Corporation; Andrew Canning  
5 and Optis Europe, Ltd., the defendants.

6                   In the District Court of the Virgin Islands,  
7 Division of St. Croix. Civil Action Number 1:21-CV-00312.

8                   My name is Sam Halvorson. I am the  
9 videographer for today's proceedings. Our court reporter is  
10 Susan C. Nissman-Coursey, RMR.

11                  Today's date is April 28, 2023. The deponent  
12 is Adrian Melendez, Jr., and Rule 30(b) and Rule 36 (sic)  
13 deposition of plaintiff. The time is 9:45.

14                  For the purposes of voice identification, I'm  
15 asking -- requesting that the attorneys present identify  
16 themselves at this time.

17                  **MR. KAPLAN:** Alex Kaplan, of Susman Godfrey,  
18 on behalf of Vitol Virgin Islands Corp. and Vitol U.S.  
19 Holding II Co.

20                  **MR. BECKSTEDT:** Attorney Carl Beckstedt, of  
21 Beckstedt and Kuczynski, also on behalf of the Vitol  
22 defendants.

23                  **MS. ROHN:** Lee Rohn, on behalf of the  
24 plaintiff.

25                  **THE VIDEOGRAPHER:** Please swear the witness.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **A.**    Yes.

2           **Q.**    All right. Who prepared the form here in  
3 Exhibit 12, the page ending in 94, the welder performance  
4 qualification record?

5           **A.**    Again, describe -- who prepared the form?

6           **Q.**    Yes.

7           **A.**    Okay. So Mr. Castro was the one that actually  
8 prepared the form.

9           **Q.**    So all of the information listed on the form  
10 that's filled in each of these lines, that was filled out by  
11 Mr. Castro?

12          **A.**    Correct.

13          **Q.**    And when you say, "Mr. Castro," you're referring  
14 to Guillermo Castro?

15          **A.**    Correct.

16          **Q.**    All right. Mr. Castro did not sign the welder  
17 certification --

18          **A.**    Correct.

19          **Q.**    -- correct?

20                    You signed the welding certification,  
21 correct?

22          **A.**    That's right.

23          **Q.**    And you -- the date on the bottom of this form is  
24 February 19th, 2021, right?

25          **A.**    Correct.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**    Okay. Is that the date that you signed the form?

2           **A.**    That's correct.

3           **Q.**    Okay. When did Mr. Castro fill out all the  
4 information on the form? On the same date?

5           **A.**    February 2021.

6           **Q.**    I'm sorry. Say again?

7           **A.**    February of 2021.

8           **Q.**    Okay. Not on the same date that you signed the  
9 form?

10          **A.**    Can't recall that.

11          **Q.**    Okay. How did you get the form to sign for Mr.  
12 Castro?

13          **A.**    Oh, it was actually through FedEx. Got  
14 information through FedEx.

15          **Q.**    Mr. Castro sent you a FedEx with this whole form  
16 filled out, except for your signature on the bottom?

17          **A.**    Correct.

18          **Q.**    Okay. Did Mr. Castro fill in the part that said  
19 Petro Industrial Solutions?

20          **A.**    True.

21          **Q.**    He filled that in, or you filled that in?

22          **A.**    No, he did.

23          **Q.**    Okay. And did Mr. Castro fill in the date on the  
24 bottom?

25          **A.**    I believe so. I believe so.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**     When did Mr. Castro do the testing that is  
2           reflected in this welding performance qualification record  
3           in Exhibit 12 on the page ending 94?

4           **A.**     I believe around the same date.

5           **Q.**     On what date?

6           **A.**     The same date of 2-19.

7           **Q.**     So you believe Mr. Castro tested Mr. Batista on  
8           February 19th, 2021, and then FedExed to you this form that  
9           you signed?

10          **A.**     I believe so.

11          **Q.**     All right. Where did the testing that Mr. Castro  
12          did of Mr. Batista take place?

13          **A.**     The facility -- he was working for a client there  
14          in -- in Puerto Rico, and we tested all the welders there.

15          **Q.**     Where in Puerto Rico?

16          **A.**     In the San Juan area. He actually just said, show  
17          up this area, and that's what the guys did.

18          **Q.**     Were you present at the time that Mr. Castro  
19          tested any of your welders?

20          **A.**     No, I was not.

21          **Q.**     Were any of the Petro managers or supervisors,  
22          superintendents, any management of Petro present?

23          **A.**     No.

24          **Q.**     Did you know Mr. Castro from before February of  
25          2021?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **A.**     Yes, I did.

2           **Q.**     Okay. How did you know Mr. Castro?

3           **A.**     We worked -- he was the lead inspector/technician  
4 for Limetree. In Limetree Bay.

5           **Q.**     When's the last time you spoke to Mr. Castro?

6           **A.**     Oh, my goodness. This had to be actually July of  
7 2021.

8           **Q.**     Do you know anything about Mr. Castro's current  
9 whereabouts?

10          **A.**     No, I do not.

11          **Q.**     Have you had any written communications with  
12 Mr. Castro since July of 2021?

13          **A.**     No.

14          **Q.**     E-mails? Texts?

15          **A.**     No.

16          **Q.**     Any phone calls?

17          **A.**     No.

18          **Q.**     Okay. Now, at the time Mr. Castro did this  
19 testing in February of 2021, Mr. Castro did not work for  
20 Acuren Inspection Services, true?

21          **A.**     True.

22          **Q.**     Mr. Castro, on the form, it says, "Welding Test  
23 Conducted By: Guillermo Castro," and then it says, "LIII."

24                   Do you see that?

25          **A.**     Correct.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**    Do you know what the LIII signifies?

2           **A.**    Level III.

3           **Q.**    Okay. Level III. Do you know what -- Level III  
4 what?

5           **A.**    So that's kind of the highest level. So he's --  
6 he's performed the third level of his craft, which is phased  
7 array or PATUTs (sic), which is phased array ultrasonic  
8 testing.

9           **Q.**    Do you know whether Mr. Castro, in fact, holds the  
10 Level III certification?

11          **A.**    Currently?

12          **Q.**    At any time?

13          **A.**    Yes.

14          **Q.**    How do you know that?

15          **A.**    Through Acuren.

16          **Q.**    In what way did Acuren inform you that Mr. Castro  
17 holds a Level III certification?

18          **A.**    Actually, a certificate itself.

19          **Q.**    Do you possess the certificate?

20          **A.**    I believe I do.

21          **Q.**    Okay. In what context did you receive a  
22 certificate from Acuren, showing that Mr. Castro has a Level  
23 III certification?

24          **A.**    Different testing that we've done, he actually  
25 attaches a certification in the back of it.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**     So testing that you did with Mr. Castro before  
2     February of 2021?

3           **A.**     Yes.

4           **Q.**     Okay. In what -- what project?

5           **A.**     Limetree.

6           **Q.**     Okay. So sometime working on the Limetree Bay  
7     project, you believe Acuren provided you with a certificate,  
8     indicating Mr. Castro held a Level III certification?

9           **A.**     Correct.

10          **Q.**     And you believe you currently possess that  
11     certificate?

12          **A.**     I do. This has to be -- I mean, this is 2017 or  
13     so. I believe I do.

14          **Q.**     Okay. Do you have any other information that  
15     would indicate one way or the other whether Mr. Castro, in  
16     fact, holds the Level III certificate, other than this  
17     Limetree Bay certificate?

18          **A.**     No.

19          **Q.**     Have you read the declaration that was submitted  
20     in this case from Doug Rice of Acuren?

21          **A.**     No.

22                   **MS. ROHN:** You were supposed to look at every  
23     document? How could you say that?

24          **A.**     I read so much.

25          **Q. (Mr. Kaplan)** Did you have a contract with

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**



**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 Mr. Castro to do a certain scope of weld testing or  
2 certifications in February of 2021 --

3 **A.** No.

4 **Q.** -- for your employees?

5 **A.** No.

6 **Q.** So how did you make arrangements for him to do  
7 this testing?

8 **A.** Literally, a phone call. Hey, I need you to  
9 retest these welders. Are you available? Yes, I'm in  
10 Puerto Rico, and that's the way it was.

11 **Q.** Did you pay Mr. Castro for him performing this  
12 certification?

13 **A.** Yes.

14 **Q.** Okay. Did Mr. Castro issue any form of invoice or  
15 documentation for this testing?

16 **A.** No, but I do have a PayPal that I sent him. Copy  
17 of the PayPal that I sent him.

18 **Q.** Do you recall how much you paid for the  
19 certification records?

20 **A.** I believe it was a thousand bucks.

21 **Q.** Per welder or total?

22 **A.** Total.

23 **Q.** And how many times did Mr. Castro do any  
24 certification testing for Petro welders?

25 **A.** On this occasion, it was about six of them, I

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 believe. Yeah, six.

2 **Q.** Was there more than one occasion, though, where  
3 Mr. -- where you had Mr. Castro do welding certifications  
4 for Petro welders?

5 **A.** No, I believe that was it.

6 **Q.** So you believe it was February 19th, 2021,  
7 Mr. Castro did welding certifications for a number of Petro  
8 welders, and that's the only one you recall?

9 **A.** No. There was -- yeah, there were two other ones  
10 that were done in April. In March and in April, yeah.

11 **Q.** Were you present at any of the welding  
12 certifications?

13 **A.** I was not.

14 **Q.** Were any Petro managers or supervisors present at  
15 any of the welding certifications?

16 **A.** No.

17 **Q.** All right. So on the certification form  
18 underneath Mr. Castro's name, it says, "Mechanical Tests  
19 Conducted By: Acuren Inspection Services," correct?

20 **A.** Correct.

21 **Q.** But you knew that in February of 2021, Mr. Castro  
22 did not, in fact, work for Acuren Inspection Services,  
23 right?

24 **A.** I did not know that.

25 **Q.** You believed, in February 2021, that Mr. Castro

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 worked for Acuren?

2 **A.** I never asked the question.

3 **Q.** Well, you certainly believed that Mr. Castro did  
4 work for Acuren, based on this form, right?

5 **A.** Yeah. Took the form at value.

6 **Q.** Would you have signed and submitted this form to  
7 WAPA and Vitol and IPOS if you knew that Mr. Castro did not,  
8 in fact, work for Acuren --

9 **MS. ROHN:** Objection.

10 **Q. (Mr. Kaplan)** -- at the time this form was signed?

11 **MS. ROHN:** Calls for speculation.

12 **A.** Those forms are actually Petro's forms. So -- so  
13 these forms, this is Petro paying for what we actually paid  
14 for.

15 So your question is, as far as if it was  
16 Acuren, or if it was any other company overseeing  
17 independently, that -- that's irrelevant. I mean, would I  
18 sign them? I would have signed them.

19 **Q. (Mr. Kaplan)** Even if you knew Mr. Castro didn't  
20 work for Acuren, you would have signed and submitted this  
21 form?

22 **A.** Yes.

23 **Q.** And now you see at the bottom above your  
24 signature, it says, "we," and that's you, on behalf of  
25 Petro, right?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **A.**     Yeah.

2           **Q.**     Petro. Says, "We certify that the statements in  
3 this record are correct," right?

4           **A.**     Correct.

5           **Q.**     Okay. So you're certifying that Mr. Castro did  
6 this work, and then, quote, "Mechanical Tests (were)  
7 Conducted By: Acuren Inspection Services," right?

8           **A.**     I didn't certify -- or, actually, I am okay with  
9 the actual certification, yes.

10          **Q.**     But included in the certification is the factual  
11 statement that mechanical tests were conducted by Acuren  
12 Inspection Services, right?

13          **A.**     What it states here is correct, and the test  
14 coupons were prepared and weld in accordance to ASME.  
15 That's what I signed. Acuren is an afterthought.

16          **Q.**     Acuren is what?

17          **A.**     An afterthought. Like that is -- for me, the  
18 biggest thing is that he certified my welder.

19          **Q.**     You don't think it was important to have the name  
20 Acuren Inspection Services on this certification to indicate  
21 a company with a reputation for doing this type of work had  
22 actually done the mechanical tests?

23          **A.**     The actual -- the value of it is his name. The  
24 value is that he is a Level III. He is actually -- he is or  
25 was the highest level technician for that firm. So that's

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 the value. I am putting that liability on Petro. This is  
2 my document. All I needed him to do was to certify my  
3 welder.

4 **Q.** Who certifies someone as a Level III inspector?

5 **A.** So he actually has to go through different -- he,  
6 himself, personally, has to go through different levels  
7 himself. He has to pay through different classes.

8 **Q.** But Acuren is the one who certifies -- classifies  
9 someone, correct?

10 **A.** Correct, but he's actually independent, though.  
11 He can actually certify other people, if he wants, himself.

12 **Q.** Mr. Castro wrote on the form, Acuren?

13 **A.** That was on the form.

14 **Q.** And you're telling us you thought, at the time, he  
15 did work for Acuren?

16 **A.** I didn't know either way. I mean, either way, I  
17 didn't know.

18 **Q.** Okay. But just to be clear about the facts, at  
19 the time, you received the welding certifications in  
20 February --

21 **A.** No, actually. No, you know, he did tell me he  
22 didn't work for Acuren. You're right. Correct.

23 **Q.** Let's be --

24 **A.** Correct.

25 **Q.** -- very clear on the facts.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **A.**     Correct.

2           **Q.**     In February of 2021, when you received this form,  
3           the welding certification records, you knew, because  
4           Mr. Castro told you, that he did not work for Acuren,  
5           correct?

6           **A.**     I believe that was the conversation, yeah.

7           **Q.**     Okay. And next to where it says, "Mechanical  
8           Tests Conducted By: Acuren," it has a laboratory test  
9           number.

10                         Do you see that?

11           **A.**     That's right.

12           **Q.**     And on the -- on the form for Mr. Batista, it  
13           says, "PAUT021621-EB," right?

14           **A.**     Yes.

15           **Q.**     And if you look at all the other welding  
16           certifications, it has a similar, but different test number,  
17           right?

18           **A.**     Okay.

19           **Q.**     Do you see that?

20           **A.**     Yes.

21           **Q.**     Okay. But they all start with PAUT, correct?

22           **A.**     Correct.

23           **Q.**     Do you know what that stands for?

24           **A.**     PAUT is phased array ultrasonic testing.

25           **Q.**     Do you have copies of the tests? These test

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 numbers that were done on these welders?

2 **A.** I do not.

3 **Q.** Mr. Castro should have a copy of these?

4 **A.** As I understand, no, he didn't.

5 **Q.** I'm sorry?

6 **A.** As I understand, no, he did not.

7 **Q.** What do you mean, "no, he did not"? It says he  
8 performed a mechanical test.

9 **A.** Correct. I didn't request actual reports, so he  
10 did not. Actually just performed the tests. Pass. Move  
11 forward.

12 **Q.** I'm not -- I'm not following what you're saying.  
13 So you're saying Mr. Castro doesn't have a  
14 copy of the test results?

15 **A.** That's what I understand.

16 **Q.** So how -- he filled out this form from memory?  
17 How would he know the information to put in the form?

18 **A.** There's a test coupon, right? So let's just say  
19 it's a 6-inch piece of pipe. Put a weld together. And then  
20 you're right there. Pass or fail. And that's basically it.  
21 So that actually is a record of what this test is about.

22 **Q.** But you said this was a Petro form, right?

23 **A.** I'm sorry. This form?

24 **Q.** Yeah. You told me it was a Petro form?

25 **A.** No, I never said it was a Petro form.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1                   **MS. ROHN:** You said that.

2           **A.** That this was a Petro form? No, no, no. This is  
3 not a Petro form.

4           **Q. (Mr. Kaplan)** Okay. Where did you get the form?

5           **A.** This is Mr. Castro's form.

6           **Q.** Okay. So --

7           **A.** I'm sorry if I said that. Correct.

8           **Q.** This is Mr. Castro's form, but you're saying he  
9 does this test coupon, and then he pulls up this form on a  
10 computer, and he fills out this information, but there's no  
11 written test report?

12          **A.** That's correct.

13          **Q.** So what does the test number signify, then?

14          **A.** So he'll put a test number on the actual coupon  
15 itself.

16          **Q.** Okay. Do you have copies of the coupon?

17          **A.** I don't believe. This was 2-3 years ago. No, I  
18 do not.

19          **Q.** But did you ask Mr. Castro for any copies of  
20 those?

21          **A.** I did not.

22          **Q.** Now, a photo -- a phased array is a particular  
23 type of welding test, right?

24          **A.** Correct.

25          **Q.** It's different from a mechanical test, right?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**



**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **A.**    Don't know what the difference is of what you're  
2 asking.

3           **Q.**    All right. So if you turn to the last page of  
4 this document welder certification for Mr. Philips, right?

5           **A.**    Okay.

6           **Q.**    How do you pronounce his first name?

7           **A.**    Richie or -- yeah. Richaël, actually.

8           **Q.**    Is Richaël one of your employees, sir?

9           **A.**    No, not currently.

10          **Q.**    But Mr. Philips was one of your welders?

11          **A.**    Correct.

12          **Q.**    And the date on his form is 3-22-21, right?

13          **A.**    Okay.

14          **Q.**    Okay. So you're saying Mr. Castro sent you a  
15 FedEx also on 3-22?

16          **A.**    I believe so.

17          **Q.**    Okay. And he also sent you a FedEx on April 1?

18          **A.**    I believe so, yeah. Within those times.

19          **Q.**    Okay. So there's a -- there's a FedEx to you on  
20 February 19th, you're saying, from Mr. Castro, right?

21          **A.**    Should be.

22          **Q.**    Yes?

23          **A.**    Yes.

24          **Q.**    Okay. And you believe there's another one on  
25 March 22, and another one on April 1, correct?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **A.**    I believe so, yes, sir.

2           **Q.**    Okay. And the way you think the forms would be is  
3 Mr. Castro would fill out this whole form, and it would come  
4 to you, and you would sign it, and that -- that it was  
5 complete, right?

6           **A.**    Correct.

7           **Q.**    Okay. All right. I'm going to show you what I've  
8 marked as Exhibit 13, which is PIS61.

9                   (Deposition Exhibit No. 13 was  
10                   marked for identification.)

11                   All right. Do you recall, in July of 2021,  
12 IPOS was asking for a variety of information related to  
13 welding procedures, welding inspections, test reports, and  
14 certifications/qualifications?

15           **A.**    Yes, I do.

16           **Q.**    Okay. And there was an individual, Andreas  
17 Constantinou. Do you recall?

18           **A.**    On the e-mail. I've never met the gentleman.

19           **Q.**    Okay. But do you recall that Mr. Smith was saying  
20 that Andreas was responsible for requesting and reviewing  
21 all of this information about your welding and procedures  
22 and qualifications and alike?

23           **A.**    I do recall.

24           **Q.**    Okay. So if you look on the second page, you're  
25 responding to Mr. Smith. And you say, "please find our

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 response below along side your questions."

2 Do you see that?

3 **A.** Yes, sir.

4 **Q.** Okay. And the question was, or the request was  
5 for Petro's full inspection and test plan, right?

6 **A.** Correct.

7 **Q.** And what you wrote in the bold and underlined part  
8 there is, you write "no I&TP reports were required from  
9 IPOS/Vitol and therefore none can be provided," right?

10 **A.** Correct.

11 **Q.** So you're saying you have no inspection or test  
12 plan reports, right?

13 **A.** Inspection, we did. Obviously, we provided all  
14 the actual x-rays that were actually perform on the vent  
15 line, so that was.

16 But as far as the test plan, yeah, there was  
17 no written test plan.

18 **Q.** And then the other thing that they asked for were  
19 daily records for welding, fitting, and visual inspections.

20 And you say, "we do not have daily reports  
21 but have included weld logs with all NDT which includes VT  
22 on all welds from the third party inspection," correct?

23 **A.** Correct.

24 **Q.** Okay. And then the last item says, "Welding and  
25 mechanical tests of WPQs," and that's welder performance

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 qualifications, correct?

2 **A.** Um-hum.

3 **Q.** Okay. So the request here was to actually provide  
4 the tests that were used to qualify the welders, right?

5 **A.** Okay.

6 **Q.** Is that how you understood it?

7 **A.** Yes.

8 **Q.** And what you wrote, is, you wrote, "The actual  
9 welders' qualification certificates were given to Petro in  
10 lieu of a PAUT report," right?

11 **A.** Gotcha.

12 **Q.** "Each Welder was tested on four different  
13 positioned coupons which were phase array inspected and  
14 passed. Certifications were then approved, accepted and  
15 signed by Petro," right?

16 **A.** Correct.

17 **Q.** Okay. And if you look, Mr. Smith responds to you  
18 at the top of the page, and he says, "you signed the  
19 qualification certificate on behalf of Acuren/Costas." I  
20 think he means Castro.

21 **A.** Castro.

22 **Q.** Okay. He says, "you signed the quotation  
23 certificate -- qualifications certificate on behalf of  
24 Acuren. We believe there must be a report/certificate/  
25 document from Acuren/Costas in order for you to sign the

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 WPQ. Can you please provide it?" Right?

2 **A.** Right.

3 **Q.** In response to that, that's when you told  
4 Mr. Melendez -- sorry. When you, Mr. Melendez, told  
5 Mr. Smith, and others at IPOS, to "see Mr. Castro's attached  
6 letter regarding this question," right?

7 **A.** Correct.

8 **Q.** Okay. So in response to questions about the  
9 welding certifications, you said, look at this letter from  
10 Guillermo Castro, correct?

11 **A.** Correct.

12 **Q.** Okay. And the date of this e-mail is what, sir,  
13 when you said, look at the attached letter from Mr. Castro?

14 **A.** The letter from what, sir? I'm sorry.

15 **Q.** When you told Mr. Smith, and others at IPOS, to  
16 see Mr. Castro's letter, when did you tell them that?

17 **A.** July 27th, looks like.

18 **Q.** Okay. Let me show you what I've marked as  
19 Exhibit 14, which is IPOS 553.

20 (Deposition Exhibit No. 14 was  
21 marked for identification.)

22 **A.** Thank you.

23 **Q.** You're welcome.

24 Do you recognize Exhibit 14 as the letter  
25 that you sent to IPOS as the letter from Mr. Castro?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **A.**     Yes.

2           **Q.**     Okay. And so we just looked at Exhibit 13, dated  
3           July 27, 2021, where you said, "see Mr. Castro's attached  
4           letter," right?

5           **A.**     Correct.

6           **Q.**     Okay. But Mr. Castro's letter in Exhibit 14 is  
7           dated two days later, July 29th, 2021.

8                     Do you see that?

9           **A.**     I see it.

10          **Q.**     So how did you send a letter to IPOS on July 27th  
11          that was dated two days later, July 29th?

12          **A.**     That's when Mr. Castro sent. I don't know if he  
13          was in Japan at the moment, I believe. I don't know if he  
14          was working at night. I don't know if it was, you know,  
15          just a mistake, or what it was. Never questioned him.

16          **Q.**     Sure.

17                     Mr. Castro sent you a letter that had the  
18          July 29 date on it?

19          **A.**     Correct.

20          **Q.**     How did you get, physically get, this letter from  
21          Mr. Castro? Did he FedEx it to you?

22          **A.**     No. An e-mail.

23          **Q.**     He e-mailed it to you?

24          **A.**     Correct.

25          **Q.**     So he e-mailed you a -- a Word document? A PDF

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 document?

2 **A.** I believe it was PDF.

3 **Q.** Okay. Do you have a copy of the e-mail from  
4 Mr. Castro that transmits this -- this letter to you?

5 **A.** I'm sure I do.

6 **Q.** We haven't seen that in the production.

7 You believe you produced the e-mail?

8 **A.** No?

9 **MS. ROHN:** I haven't seen it.

10 **A.** Okay. I will send it to you guys.

11 **MS. ROHN:** Sorry, guys.

12 **A.** I'm sorry. Sorry. Sorry. My error.

13 **Q. (Mr. Kaplan)** Do you have other e-mails with  
14 Mr. Castro?

15 **A.** No. This is it.

16 **Q.** How did Mr. Castro know to provide the letter?  
17 Did you e-mail? Did you call him?

18 **A.** I called him.

19 **Q.** And what did you tell Mr. Castro when you called  
20 him before he sent this letter to you?

21 **A.** I told him about the whole situation. Told him  
22 about, Hey, you know what? The welders' quals are being  
23 questioned. There's a couple discrepancies between, you  
24 know, kind of, you know, see that there's overwriting or  
25 whatever it is, or, you know, kind of missing with dates

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 here and there, can you please explain it, and this is what  
2 he came back with.

3 **Q.** Okay. If you look at Mr. Castro's letter, in the  
4 middle of that second paragraph, he says, "I tested six  
5 welders for Adrian, at my Client's shop in Puerto Rico."

6 Do you see that?

7 **A.** Correct.

8 **Q.** Okay. Then he says, "but unfortunately did not  
9 have the original Quals under Acuren saved and to re-certify  
10 the previous reports I had to adjust the old welders' quals  
11 and changed the welders' tensile number, the qualification  
12 date, and the four test coupons."

13 Do you see that?

14 **A.** Correct.

15 **Q.** Do you know what any of that means?

16 **A.** Yes. So what he had to do is basically from the  
17 original quals that he had from Limetree Bay, and the new  
18 coupons that he had, he had to just superimpose them.  
19 That's what he meant.

20 **Q.** But he said he didn't have the original  
21 qualifications, right?

22 **A.** Well, that's what he meant.

23 And then if you keep reading a little bit  
24 further -- yeah. So he actually just had to superimpose.  
25 He basically had to cut and paste. That's what he's saying.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**



**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**    So if you look at the welding certification forms  
2           that were in Exhibit 12, if we look at the first one for  
3           Mr. Cruz that ends on Page 95, and you're saying cut and  
4           paste or superimpose.

5           **A.**    Uh-huh.

6           **Q.**    That's why you see those two right columns in the  
7           middle, why they don't line up with the other lines, right?

8           **A.**    Actually, I'll be honest with you, I think from  
9           the original -- not that I have them, but from the original  
10          ones from Limetree Bay, this was -- this is the way it was.  
11          There's no reason why it's like that, so --

12          **Q.**    Okay. Well, look at the next form for  
13          Mr. Rodriguez, 96. Do you see how he has the similar issue,  
14          where the lines don't line up there for the -- the actual  
15          test results?

16          **A.**    I think they all look the same, don't they? I  
17          mean, they're all the same.

18          **Q.**    Is that -- is this what you're referring to, about  
19          the forms not lining up, when you said superimpose or cut  
20          and paste?

21          **A.**    No, no, no. What he had to do was basically  
22          change the stamp. What he's saying, the actual welding  
23          coupons, what he's saying here, and test number here.  
24          That's what he's saying. Not that he changed any of this  
25          other stuff, or changed the lining or the leveling of it.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**    Okay. You're going to have to walk me through  
2           this, sir.

3                       What information, on this form -- let's take  
4           one of the welders. Let's start with Mr. Batista, okay?

5           **A.**    Okay.

6           **Q.**    All right. So we're looking at Exhibit 13?

7           **A.**    Correct.

8           **Q.**    Pardon me. We're looking at Exhibit 12?

9           **A.**    Correct.

10          **Q.**    We're looking at the certification form for  
11          Mr. Batista that you submitted to WAPA and Vitol and IPOS,  
12          right?

13          **A.**    Correct.

14          **Q.**    We're looking at Mr. Batista's form that ends in  
15          Bates Number 994.

16                       What information on this form was from the  
17          time that you say Mr. Castro originally tested these people  
18          from Limetree Bay, what information is new from the testing  
19          done in February of 2021?

20          **A.**    So the welder stamp up here in the corner.

21          **Q.**    The stamp number at the top right corner?

22          **A.**    Correct.

23          **Q.**    EB (74)?

24          **A.**    Correct.

25          **Q.**    What about that?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **A.**     So that's changed.

2           **Q.**     That's a new number?

3           **A.**     That's a new number.

4           **Q.**     Okay.

5           **A.**     So now that's a Petro number.

6           **Q.**     Okay.

7           **A.**     Okay? So then that, he's saying the actual test  
8 coupons themselves, which is described right here, where it  
9 actually says, "Trans. Root & Face," okay? And then he says  
10 the laboratory test number, that's what he's changed.

11          **Q.**     So the guide bend test results, that's new  
12 information, based on new work done in February of 2021?

13          **A.**     That's actual coupons he tested, correct.

14          **Q.**     Great.

15                   What about all the information above it on  
16 the form, where it says, "Manual or Semi-Automatic Variables  
17 for Each Process"? Do you see that? The whole middle  
18 section of the form?

19          **A.**     Correct.

20          **Q.**     That's -- that information is from prior tests  
21 done at Limetree Bay?

22          **A.**     Well, all that is basically the same test, right?  
23 Because all that's changed, because it's actually a  
24 procedure changed, right?

25          **Q.**     I don't understand.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **A.**     Okay. So if I may -- let me see real quick.

2                     Actually, all this is the same. This  
3     Limetree Bay one. So all he's doing is saying, okay, so the  
4     same test that we did at Limetree Bay, all we're doing is  
5     just changing the stamp, changing the actual results, and  
6     then changing the laboratory tests, 'cause all the rest is  
7     the same.

8           **Q.**     When you say, "all the rest," tell us  
9     specifically --

10          **A.**     So basically --

11          **Q.**     -- what information is all the same?

12          **A.**     What you're asking, basically all the center, all  
13     the center markings, they're all going to be the same.

14          **Q.**     Everything from where it says, "Manual or  
15     Semi-Automatic Variables for Each Process," all the way down  
16     to where it says, "Guide Bend Test Results"?

17          **A.**     Correct. And, actually, even the top portion,  
18     where it says the weld testing procedure number, where it  
19     says, "PISL-GT," well, that's our procedure that we started  
20     back in 2018. So all that is going to be the same, 'cause  
21     that's the same procedure that he's testing under, right?  
22     So it's still going to be gas ten -- tungsten arc, which is  
23     TIG welding, all that is going to be the same. Again,  
24     because he's just requalifying that welder for that specific  
25     procedure.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**    Okay. But Mr. Castro's telling you, he didn't  
2           have the original qualifications in his files from Acuren,  
3           correct?

4           **A.**    That's what he's saying.

5           **Q.**    How did Mr. Castro have any of this information  
6           about the procedures used at Limetree Bay?

7           **A.**    Well, what I understand, what he told me, is that  
8           he didn't have the original form to be able to -- to just  
9           basically put it out. He actually had a copy of the  
10          original procedures, saying that, yes, I did qualify this  
11          welder. I mean, in Limetree. This is, again, 2018,  
12          correct. Or before that, 2016. Yeah.

13          **Q.**    Did Mr. Castro send you the original form?

14          **A.**    No.

15          **Q.**    Have you ever seen the original form?

16          **A.**    No, those are actually Limetree Bay documents. So  
17          everybody worked for Limetree, and they paid for everything  
18          there.

19          **Q.**    Okay. So when you said earlier something about  
20          cut and paste or superimpose, tell us what you meant by  
21          that.

22          **A.**    What I understand is basically just the stamp,  
23          because the stamp was different. And then the actual  
24          laboratory, and in the middle, where it says, "bend test."  
25          The center portion of it.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**     Okay. Cut and paste from what?

2           **A.**     To add the new information on there. The new  
3 coupons.

4                         So in Limetree Bay, Limetree Bay paid -- they  
5 hired all of us as time and material employees. So they  
6 hired the inspection company, which was Acuren. They hired  
7 us as the contractor. And they, themselves, in person,  
8 would test the actual welders themselves. They, themselves,  
9 paid for it, and they, themselves, actually had and owned  
10 the possession of these actual welding logs.

11                        So ever since then, we follow the same  
12 welding logs, which is actually the welding logs, which  
13 actually, if you stayed on the welding logs, when this -- in  
14 the same year, if you're testing or actually welding the  
15 same procedure, it is still valid. Meaning the welding  
16 procedure, the welding log, the actual welding  
17 qualifications are still valid, 'cause you're still testing  
18 on the same thing.

19                        In between that, we do test, like you guys  
20 have seen before, through x-ray, through phase array and  
21 different welds through same welder. So requalifying that  
22 welder over and over and over. And we've done that through  
23 Limetree. I'm so sorry, through IPOS and Vitol's project,  
24 because we have requalified them over and over again through  
25 different types of testing.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**   Who did the requalifications -- so you said the  
2           original one was done in Limetree Bay 2017?

3           **A.**   I'll say probably --

4           **Q.**   '16-'17?

5           **A.**   '16-'17.

6           **Q.**   Okay. Fair enough.

7                               Who did the recertification in 2018 and 2019  
8           and 2020 for your welders?

9                               (Cross talk.)

10          **Q.**   So you had to do recertifications every year,  
11          right?

12          **A.**   No. So if you're following the same procedure, if  
13          you're doing the same procedure, and you're holding welding  
14          logs of what weld it was, what procedure you're using, what  
15          welder it was -- I mean, what welder tensile it is, dates on  
16          it, that same procedure, that same welding log is valid.

17                       A new client, if you have one, they can ask  
18          for new testing. They can. And, therefore, you have to  
19          bring the inspector, you have to bring the welder on site to  
20          reinspect.

21          **Q.**   Okay. Is -- was the 3-inch vent line project the  
22          first time that IPOS or WAPA or Vitol asked for a  
23          recertification of any of the Petro welders?

24          **A.**   They've never asked for recertification.

25          **Q.**   Okay. But why did you provide the welder

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 qualification forms here in -- in advance of the 3-inch vent  
2 line project in 2021?

3 **A.** Because they asked for my qualifications. Those  
4 are my qualifications. Those are Petro qualifications.  
5 They're not IPOS. They're not Vitol's. Those are Petro's  
6 qualifications.

7 **Q.** Okay. Why did you provide the qualifications back  
8 from '16 or '17? Why did you provide those?

9 **A.** Because those were recent. And I -- I, myself,  
10 wanted to see if these welders were still going. So those  
11 are mine.

12 In what you brought up earlier, you have VTTS  
13 piping and welding specs. In there, it states that after  
14 Andrew Cannon gave it to me, and, you know, after or during  
15 the whole procedure, that the welders should be certified on  
16 site with a representative overlooking them. That was never  
17 done.

18 So, again, these are my qualifications.

19 **Q.** But Mr. Castro's -- is doing the testing, not you,  
20 correct?

21 **A.** I signed them. They're my qualifications.

22 **Q.** But you're not -- you're not licensed or qualified  
23 to do welding and certifications, correct?

24 **A.** I'm liable with Petro, so, yes.

25 **Q.** That's not my question. I understand you're



**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1       liable for Petro.

2                       My question is, you are not certified/  
3       licensed/qualified to actually do a welder performance  
4       qualification?

5           **A.**     Of course not. That's why I hired on Mr. Castro.

6           **Q.**     Just to be clear, 'cause you're saying these are  
7       "my records."

8                       You're not qualified to certify a welder as  
9       qualified, right?

10          **A.**     Correct. That's why I got Mr. Castro.

11          **Q.**     Mr. Castro, in his letter, says -- he goes on, "I  
12       gave Petro Industrial a welder's qualification certificate  
13       for each welder, which all welders passed, in lieu of a PAUT  
14       report."

15                      Do you see that?

16          **A.**     Correct.

17          **Q.**     Then he says, "No qualification reports were  
18       created," right?

19          **A.**     Correct.

20          **Q.**     Okay. But if no -- the form is a qualification  
21       record, right?

22          **A.**     Yeah. So he was referring more back, because I  
23       had called him about, for example, they were asking for  
24       actually where is the actual report for the PAUT report.  
25       That's what he was referring to.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.** But Mr. Castro is saying he doesn't have the  
2 report that IPOS and WAPA and Vitol were requesting,  
3 correct?

4           **A.** IPOS and Vitol, not WAPA.

5           **Q.** But you had been -- okay.

6           **A.** And if you do look forward, he did mention, and I  
7 was talking to David Smith, he would actually come on site  
8 to actually recertify, retest everything, so this could be  
9 cleared up, and that was just thrown under the rug. I could  
10 have solved so much. And I paid --

11                   **MS. ROHN:** There's no question to you.

12           **A.** Sorry.

13           **Q. (Mr. Kaplan)** Are you saying WAPA didn't ask for  
14 specific project documentation, including welder  
15 qualification reports?

16           **A.** That's not what I said.

17           **Q.** WAPA, in fact, did ask for project documentation,  
18 and included in WAPA's request, were the welder  
19 certification test reports, correct?

20           **A.** They did ask that, correct. IPOS and Vitol were  
21 asking for a report from those welder qualifications, which  
22 were not there.

23           **Q.** You were unable to provide the welder  
24 qualification test reports, correct?

25           **A.** They -- they do not exist.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**    All right. Let's switch gears.

2                       Let me show you -- show you what I've marked,  
3   sir, as Exhibit 15, which is IPOS 5359.

4                       (Deposition Exhibit No. 15 was  
5                       marked for identification.)

6           **A.**    Thank you.

7           **Q.**    All right, sir. So you recognize Exhibit 15?  
8   This is the July 28th, 2021 letter that IPOS sent to Petro,  
9   providing notice of termination of the maintenance contract,  
10   correct?

11          **A.**    Correct.

12          **Q.**    Did you talk to Mr. Smith about this termination  
13   notice?

14          **A.**    Afterwards, yes.

15          **Q.**    Did you talk to Mr. Smith about the termination  
16   notice in person or by phone?

17          **A.**    Phone.

18          **Q.**    Tell me what you recall about your conversation  
19   with Mr. -- well, back up.

20                       Did you ask Mr. Smith, during your phone  
21   conversation, why the contract was terminated?

22          **A.**    Yes.

23          **Q.**    Okay. What do you recall Mr. Smith telling you,  
24   during this phone conversation, about why the maintenance  
25   contract was terminated?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

PIS, LLC/A. MELENDEZ, JR. -- DIRECT

1           **A.**     If I recall correctly, it was just saying there  
2     was too much liability, or there was just too much  
3     inaccuracies in the welding certifications, and that was  
4     basically the -- the gist of the matter.

5           Q.     Do you recall anything else about your  
6     conversation with Mr. Smith, following your receipt of the  
7     contract termination notice?

8                   **A.**     I don't recall.

9 Q. Did you talk with anyone else at IPOS after your  
10 receipt of the July 28th, 2021 termination notice?

11       **A.**     That was basically it.

12           Q.    Okay.  Did you talk with anyone at Vitol,  
13   following your receipt of IPOS's contract termination  
14   notice?

15           **A.**    I don't believe so.

16           Q. Did you talk with Mr. Canning, following receipt  
17   of the contract termination notice?

18	<b>A.</b>	No.
----	-----------	-----

19 Q. Okay. Did you talk to anyone at WAPA about the  
20 contract termination notice you received from IPOS?

21	<b>A.</b>	No.
----	-----------	-----

22	Q. Okay.
----	----------

23 (Respite.)

24 All right. Mr. Melendez, I want to talk a  
25 little bit about the damages that you're claiming in this

Susan C. Nissman, RPR-RMR  
(340) 773-8161

## Exhibit I

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 lawsuit, all right?

2 **A.** Yes, sir.

3 **Q.** I should say, the damages that Petro is claiming  
4 in this lawsuit, okay?

5 **A.** Yes, sir.

6 **Q.** As I understand it, Petro is claiming two kinds of  
7 damages in this case: First, Petro claims it's still owed  
8 money for work Petro actually performed, right?

9 **A.** Correct.

10 **Q.** Okay. And in your Complaint, if you find in that  
11 stack in front of you, it should be Exhibit 2.

12 **A.** Okay. Hold on a second.

13 Okay.

14 **Q.** If you look at your Complaint, look at  
15 Paragraph 71.

16 In Paragraph 71, Petro alleges that past-due  
17 invoices for work done prior to the cancellation of the  
18 contract in the amount of \$213,379, correct?

19 **A.** You said seventy --

20 **Q.** Paragraph 71.

21 **A.** Oh, sorry.

22 **Q.** Do you see that?

23 **A.** Correct.

24 **Q.** Okay. So just to be clear, do you agree that the  
25 amount stated in Paragraph 71, \$213,379.90, is the total

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 amount that Petro claims it is owed for work actually  
2 performed?

3 **A.** Correct.

4 **Q.** And the second category of damages, that I  
5 understand Petro's claiming in this case, is that Petro  
6 claims, as a result of IPOS terminating the contract, Petro  
7 future profits, right?

8 **A.** Correct.

9 **Q.** And I want to show you what I'm marking as  
10 Exhibit 16, which is Petro's Second Supplemental Response to  
11 Vitol's Third Set of Interrogatories.

12 (Deposition Exhibit No. 16 was  
13 marked for identification.)

14 All right. If you look on the first page,  
15 Interrogatory Number 10, do you see where it says --  
16 question that's asked to Petro, to "identify, on a  
17 project-by-project or job-by-job basis, all work for which  
18 you are claiming lost profits damages in this case," right?

19 **A.** Correct.

20 **Q.** Okay. And then it has specific requests for each  
21 one of the projects identified. Tell us the date on which  
22 you say the project would have been awarded. When you would  
23 have started/completed, and done the work. How much you say  
24 you would have been paid, and the amount of profit that you  
25 said you would have made, right?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

PIS, LLC/A. MELENDEZ, JR. -- DIRECT

1           A.     Correct.

2           Q.     And as well as all costs and expenses you would  
3 have incurred, correct?

4           A.     Correct.

5           Q.     Okay. And then Petro provided a chart on Page 2  
6 that has 30 different projects, right?

7           A.     Correct.

8           Q.     Okay. Did you prepare the answer to this  
9 interrogatory?

10          A.     Did I provide this information?

11          Q.     Yes.

12          A.     Yes.

13          Q.     Okay. And you verified the answer? If you look  
14 at the back, you signed the declaration, attesting that the  
15 information was true and correct, right?

16          A.     Correct.

17          Q.     I don't think there's a verification on this. Let  
18 me show you a prior one.

19                   Let me just ask you: Now under oath, do you  
20 attest to the accuracy of the information stated here in  
21 Petro's Second Supplemental Response to the Third Set of  
22 Interrogatories in Exhibit 16?

23          A.     Yes. I believe this is accurate.

24          Q.     Okay. All right. So big picture first.

25                   You've identified 30 projects that you say

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 are projects that -- work you would have done for which  
2 you're claiming damages in this case, correct?

3 **A.** Correct.

4 **Q.** And you're saying, across those 30 total projects,  
5 that Petro would have been paid \$4.48 million, right?

6 **A.** Correct.

7 **Q.** Okay. And you're saying that to perform those  
8 projects, it would have cost Petro \$3.38 million, right?

9 **A.** Correct.

10 **Q.** Okay. And so what you're saying is, you're  
11 projecting that Petro, but for the termination of the  
12 contract, Petro would have earned a projected profit of  
13 \$1,095,000, right?

14 **A.** Correct.

15 **Q.** Okay. All right. First, I want to go through  
16 the -- the columns here.

17 **A.** Okay.

18 **Q.** This list of projects, these 30 projects, tell me,  
19 where's this list derived from? What is it based on?

20 **A.** So this was a collaboration between, again, both  
21 general managers, Andrew Canning, Vitol themselves, which is  
22 Tim and Charlotte. So it's a culmination of everything. So  
23 they would ask me for, for example, removal of the first  
24 one, removal of the MLA. What's it going to cost to do  
25 that? I would provide them a budget, and this is what it

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**



**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 is. And I think you see some of them -- most of them back  
2 here, as far as copies.

3 **Q.** Just so we're clear, obviously Mr. Canning and  
4 Vitol didn't work with you to prepare your interrogatory  
5 response.

6 So what -- in what form did this list exist  
7 before the lawsuit was filed that you're saying everyone had  
8 agreed on this list?

9 **A.** So they would ask me -- this is what -- there was  
10 something called a wish list. I think you've probably seen  
11 it. So a wish list is basically what -- what was happening,  
12 or what was actually going to happen the following year,  
13 right? So that -- that list, because IPOS was the operator  
14 of the facility, Vitol the owner, they had to go and request  
15 monies from them. So that's where these actual projects  
16 came about.

17 **Q.** So you believe all 30 of these projects were  
18 approved by Vitol?

19 **A.** Correct.

20 **Q.** To do?

21 **A.** Correct.

22 **Q.** In 2021 or 2022?

23 **A.** If we were still there, we would have done them,  
24 yes.

25 **Q.** Okay. You believe, in fact, Vitol had approved

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 the budget to do every one of these 30 projects?

2 **A.** Correct. There was actually probably another 20  
3 more that they'd x'd out. Yeah, this was actually approved.

4 **Q.** Now, earlier, you made a distinction between  
5 maintenance projects and special projects, right?

6 **A.** Correct.

7 **Q.** Okay. I want to go through these.

8 Project 1, maintenance or special project?

9 **A.** Project.

10 I'm sorry. You said maintenance or project?

11 **Q.** Earlier -- just make sure I'm using your  
12 understanding.

13 **A.** Yeah.

14 **Q.** We talked about maintenance projects, which you  
15 said were governed by the -- the contract?

16 **A.** Yeah.

17 **Q.** And special projects which could be bid on and  
18 could go to other contractors, right?

19 **A.** Correct.

20 **Q.** Okay.

21 **A.** So easier, let's just say, maintenance and  
22 projects.

23 **Q.** Okay.

24 **A.** That would probably be easier.

25 **Q.** So let's just go through.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 Project 1, MLA removal. Maintenance or a  
2 project?

3 (Cross talk.)

4 **THE COURT REPORTER:** I'm sorry. Slow down,  
5 please.

6 **MR. KAPLAN:** Just let me finish the question.

7 **MS. ROHN:** Stop talking while he's talking.

8 **A.** Okay.

9 **MS. ROHN:** Sorry, Susan.

10 **THE COURT REPORTER:** Okay.

11 **Q. (Mr. Kaplan)** Project Number 1, MLA removal in STX.  
12 Maintenance or project?

13 **A.** Project.

14 **Q.** Project Number 2, replacement of rotating  
15 Dolphins?

16 **A.** Project.

17 **Q.** Number 3, replacement transfer pumps?

18 **A.** That's Number 3?

19 Project.

20 **Q.** Number 4, replacement of two-way radios?

21 **A.** Maintenance.

22 **Q.** Sure about that?

23 **A.** More than likely. That was just a simple just  
24 replacing these little mobile radios, so that would be  
25 maintenance.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**    Number 4. Sorry. Number 5, replacement of the  
2           portable gas testers?

3           **A.**    Yeah, that should probably be maintenance, also.

4           **Q.**    Number 6, painting of the control room?

5           **A.**    Projects.

6           **Q.**    Number 7, painting of the pipe?

7           **A.**    Projects.

8           **Q.**    Number 8, replacement block valves?

9           **A.**    Projects.

10          **Q.**    Number 9, additional stainless steel gearboxes and  
11          brackets for manual valves?

12          **A.**    That should probably be maintenance.

13          **Q.**    Okay. Number 10, repair of the CCTV systems?

14          **A.**    They covered that under projects.

15          **Q.**    Eleven, annual outages?

16          **A.**    Projects.

17          **Q.**    Number 12, annual boiler maintenance?

18          **A.**    Projects.

19          **Q.**    Thirteen, annual tank level gauges?

20          **A.**    Projects.

21          **Q.**    Fourteen, API tank inspections?

22          **A.**    Projects.

23          **Q.**    Fifteen, boiler feed pump replacements?

24          **A.**    Projects.

25          **Q.**    Sixteen, maintenance of new security system?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

PIS, LLC/A. MELENDEZ, JR. -- DIRECT

1           **A.**     Maintenance.

2           **Q.**     There you go.

3                     Seventeen?

4           **A.**     That was easy.

5           **Q.**     Seventeen, mound settlement repairs?

6           **A.**     Projects.

7           **Q.**     That was a significant project, right?

8           **A.**     Very.

9           **Q.**     And multiple bids went out on the mound settlement  
10     repairs to multiple different contracting and engineering  
11     firms, right?

12          **A.**     That was after.

13          **Q.**     That was after what?

14          **A.**     That was after we got our contract terminated. We  
15     were -- actually had already submitted our thing, and it was  
16     already approved.

17          **Q.**     It's your testimony Vitol had already approved the  
18     budget and the work scope for the mound settlement repairs?

19          **A.**     Yes.

20          **Q.**     Can you identify a document that approves that?

21          **A.**     More than sure I can. This was probably right  
22     before -- probably the beginning or second week in July,  
23     yeah. By Charlotte herself.

24          **Q.**     All right. So you believe Ms. Horowitz can speak  
25     to this?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **A.**     Yes.

2           **Q.**     All right. To this day, do you know if the mound  
3 settlement repairs, the work scope that's reflected here in  
4 your interrogatory response, has been done?

5           **A.**     Can't speak to that.

6           **Q.**     Eighteen, valves and control revision for "on the  
7 fly" switching?

8           **A.**     Maintenance.

9           **Q.**     Dock hose emergency disconnects?

10          **A.**     Maintenance.

11          **Q.**     Nitrogen generator?

12          **A.**     That was a project.

13          **Q.**     Stainless steel bolts?

14          **A.**     That was -- I think that was projects. I'm sorry.  
15 That was maintenance. Maintenance.

16          **Q.**     Replacement grating?

17          **A.**     Maintenance.

18          **Q.**     The tank PRV double block and bleed valves?

19          **A.**     Oh, that was projects.

20          **Q.**     Maintenance on the expert pump motors?

21          **A.**     Maintenance.

22          **Q.**     Replacement wet end of fire pumps?

23          **A.**     That was maintenance.

24          **Q.**     Design and installation of fire pump test loop in  
25 both STT and STX?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **A.**     That was project.

2           **Q.**     Electrical test equipment?

3           **A.**     Maintenance.

4           **Q.**     Purchase of the VINCO valves?

5           **A.**     Maintenance. That was just extra valves to be  
6 purchased.

7           **Q.**     Rotork actuators?

8           **A.**     Maintenance.

9           **Q.**     And semi-annual checks on the nitrogen generator?

10          **A.**     Maintenance.

11          **Q.**     Now, on the projects, you agree, those are things  
12 that can, and in many cases, were put out for bids by  
13 multiple contractors, correct?

14          **A.**     No. I do not know that.

15          **Q.**     I'm sorry?

16          **A.**     I do not know that.

17          **Q.**     But your maintenance contract did not entitle you  
18 to do any projects. IPOS could decide to give that work to  
19 whoever they believed was qualified or suitable on a  
20 particular project basis, right?

21          **A.**     So the reason we entered a maintenance contract  
22 with IPOS was because we were going to be the first person  
23 to get, or to get -- to be asked to get projects. We  
24 lowered our hourly wages on that contract for that reason,  
25 so we are the -- we were, and -- we were the first option.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**    Was IPOS required to give any projects to Petro  
2           under the terms of the contract?

3           **A.**    I'm not saying required. We were their first  
4           option.

5           **Q.**    Okay. But my question is required.

6                   Was IPOS required to give Petro any projects  
7           under the terms of the contract?

8           **A.**    I don't know that.

9           **Q.**    You're not saying that Petro was entitled to  
10          receive all the projects, correct?

11          **A.**    I'm not saying that.

12          **Q.**    Okay. It would be up to IPOS, in consultation  
13          with Vitol and WAPA, to make a decision on a  
14          project-by-project basis as to what project to do, and who  
15          to award that project to, true?

16          **A.**    True.

17          **Q.**    Okay. Now, to go through the column headings,  
18          just to make sure I understand this spreadsheet that you  
19          prepared, so obviously you have project number, the title of  
20          the project. We just talked about that.

21                   The third column says, "unit cost."

22          **A.**    Correct.

23          **Q.**    Okay. What is the unit cost that you have listed  
24          here?

25          **A.**    Basically, the cost of the -- the cost of itself,

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**



**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 right? So if it's -- for example, first one, MLA removal,  
2 the cost would be \$55,000 to remove it.

3 **Q.** Okay. The next column is estimated cost.

4 It appeared to me, when I looked at this, but  
5 you tell me, sir, that the unit cost and the estimated cost  
6 are the same. The only difference is some places, there's a  
7 breakdown between St. Thomas and St. Croix?

8 **A.** Correct. So if there's two different units, it  
9 will add it up. That's basically it.

10 **Q.** Got it. Okay.

11 The total is the same for the unit; you're  
12 just breaking it in two?

13 **A.** Correct.

14 **Q.** Okay. Now, as you sit here today, you don't know  
15 which, if any, of these projects have been done, right?

16 **A.** We're not there. I can't speak to that.

17 **Q.** And you don't know -- to the extent any of these  
18 projects have been done, you don't know what scope was  
19 actually approved and executed, correct?

20 **A.** If they haven't been done, then we're in trouble.  
21 I mean, they have to be done. It's maintenance.

22 **Q.** Well, you just told me that more than half of  
23 these were not major projects, correct?

24 **A.** It's a project, but it's part of the maintenance  
25 that had to be done. Like if there's coating issues.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 Again, I hope they did it.

2 **Q.** You believe every one of these projects is a  
3 regulatory requirement to do on an annual basis?

4 **A.** I can't speak to that.

5 **Q.** You're not saying that any of these projects could  
6 not properly be deferred, right?

7 **MS. ROHN:** Objection. Argumentative.

8 **A.** I can't -- I can't speak to that.

9 **Q. (Mr. Kaplan)** All right. So then you have a  
10 projected award date, right?

11 **A.** Correct.

12 **Q.** Okay. And what did you base that date on?

13 **A.** That was basically what we had scheduled, going  
14 forward.

15 **Q.** Okay. What -- is there a particular document I  
16 should be looking for when you say, this was agreed? Are  
17 you saying there was a -- it's a -- it's an agreed budget  
18 that all parties signed off on, or is it a spreadsheet that  
19 lists all these, and everyone had a project award date and a  
20 projected time frame?

21 **A.** No. They would actually just be scheduled. This  
22 is what we're going to do next.

23 **Q.** Okay. So you believe every one of these 30  
24 projects was scheduled, and the commencement date for the  
25 project that all the parties signed off on is the

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

PIS, LLC/A. MELENDEZ, JR. -- DIRECT

1 commencement date here in your interrogatory response?

2 A. Again, I'm not saying they signed on to, but this  
3 is basically the schedule. So everything was scheduled from  
4 the outages, from the -- everything had to be scheduled,  
5 because it wasn't just us, it wasn't just -- I mean, IPOS,  
6 it was actually WAPA, so we had to schedule those. Those  
7 were actually scheduled ahead of time.

8 Q. Okay. But I want to be clear.

9 Are you saying Vitol and IPOS signed off on  
10 these projects all being awarded on the dates listed in your  
11 interrogatory?

12 A. I cannot speak to that.

13 Q. Okay. Are you saying that Vitol or IPOS and WAPA  
14 signed off on the estimated cost for every one of these 30  
15 projects?

16 A. Correct.

17 Q. Yes?

18 A. I mean, we definitely discussed it a few times.  
19 They were okay with the pricing, and we were moving forward.

20 Q. Did purchase orders issue for any of these 30  
21 projects?

22 A. Can't recall that. But, again, we had been doing  
23 this for the last two years prior to this, so it was -- it  
24 was there. It was -- there's a history of it. So it's not  
25 like if I said, Yeah, this is what we're going to do next

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 year. There was a history in the last two years that we  
2 actually did this.

3 **Q.** So you believe all 30 of these projects have been  
4 done on an annual basis in 2019?

5 **A.** I'm not saying all 30, but I would say probably  
6 about 90 percent of them, yeah.

7 **Q.** And you believe all, or 90 percent of these, were  
8 also done in 2020?

9 **A.** I believe so. I mean, with the exception of the,  
10 you know, getting new radios, or getting stuff like that,  
11 yeah, but a lot of the maintenance, a lot of the actual  
12 projects, yes. Absolutely. The big -- the big-ticket  
13 items, yes.

14 The mound, that was a different story. Yeah,  
15 that's a different story. That's a project that needed to  
16 be corrected, and hopefully you don't have to do anything  
17 after that.

18 **Q.** Okay. You have a projected time frame that's part  
19 of the schedule.

20 Okay. You say, "projected total amount."  
21 And that's the same as the estimated cost column --

22 **A.** Correct.

23 **Q.** -- correct?

24 **A.** Yeah.

25 **Q.** Okay. And then you say, "projected total cost,"

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

PIS, LLC/A. MELENDEZ, JR. -- DIRECT

1 right?

2 A. Correct.

3 Q. Okay. And with the column that says, "projected  
4 total cost," does that reflect your estimate of Petro's  
5 all-in cost to perform that project?

6 A. That's correct.

7 Q. And then you have a column that says, "projected  
8 profit," right?

9 A. Correct.

10 Q. And that column reflects your calculation of what  
11 Petro's margin would be, Petro's profit would be on a  
12 project-by-project basis, right?

13 A. That's correct.

14 Q. Now, didn't -- didn't Petro do some work on a  
15 not-to-exceed basis on these facilities?

16 A. I believe so.

17 Q. Okay. Which of these projects are you claiming  
18 was approved on a not-to-exceed basis?

19 A. I can't recall which ones it was. Probably --  
20 maybe it's back here.

21 We had a relationship with IPOS that if we  
22 bid a lot more or we had a lot more with them, we could  
23 correct basically the time on it, we would correct it. It  
24 wasn't -- it wasn't like anything else. But, yeah, all  
25 these here were basically total amounts. They were not

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 amount to exceed.

2 **Q.** Did your projected total cost figure, does it  
3 include any contingency?

4 **A.** No, not on -- not on the budget, correct.  
5 Sometimes they add it after the budget.

6 **Q.** But when you're calculating your cost to perform  
7 these projects, did you include any contingency amount?

8 **A.** No.

9 There is one here, removal of MLA equipment.

10 **Q.** I'm sorry. Tell me what page you're on, sir.

11 **A.** This is 90 -- 795.

12 **Q.** Seven nine what?

13 **A.** Seven ninety-five.

14 **Q.** Seven ninety-five.

15 Okay. This says, "Cost Breakdown - MLA  
16 Removal & Cribbing on Trailer"?

17 **A.** Correct.

18 **Q.** Okay. And it has -- you're pointing out that it  
19 has a not-to-exceed number?

20 **A.** That's right.

21 **Q.** Okay.

22 **A.** And I think after that, there's a couple of more  
23 back there.

24 **Q.** Okay. So tell me, on the interrogatory response,  
25 what project does this breakdown for MLA removal and

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 cribbing on trailer correspond to?

2 **A.** Number 1.

3 **Q.** Okay. So Project 1, MLA removal, Page 6795,  
4 that's the budget for that project. And so that's a not-to-  
5 exceed \$54,000 estimated cost, correct?

6 **A.** Correct.

7 **Q.** Okay. You overshot that one by 200 bucks.

8 **A.** Rounding up.

9 **Q.** Rounding up. Right.

10 Okay. Well, let's look at the first part of  
11 this budget breakdown.

12 **A.** Okay.

13 **Q.** This is the Page 6765. Says, "Cost Breakdown -  
14 STT Vessel Inspection Budget."

15 Do you see that?

16 **A.** Yes.

17 **Q.** Okay. These attachments, these budget breakdowns,  
18 these are the documents that Petro cited in its response as  
19 the backup for this lost profits calculation, right?

20 **A.** Correct.

21 **Q.** Okay. So tell me, on this STX vessel inspection  
22 budget, which project does this correspond to?

23 **A.** Which number do you have?

24 **Q.** It's the first page of this budget breakdown.

25 **A.** 765?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**     6765.

2           **A.**     67.    Okay.    So this is STT vessel inspection  
3    budget.

4           **Q.**     Yes.    Tell me which project, in the interrogatory,  
5    that corresponds to.

6           **A.**     So this is going to be Number 14.   And that's  
7    actually both of them included.   St. Croix and St. Thomas  
8    are included under Number 14.

9           **Q.**     Okay.   All right.   So your budget breakdown for  
10   this Project 14, it has an equipment cost of 28 -- \$27,000.  
11   It's got a material cost of \$675.   It's got labor charges  
12   for a subtotal of \$83,000, correct?

13          **A.**     Correct.

14          **Q.**     Okay.   And then behind that is the St. Croix  
15   portion, correct?

16          **A.**     Correct.

17          **Q.**     Okay.   And that also has an equipment cost, a  
18   material cost, a labor cost, right?

19          **A.**     Correct.

20          **Q.**     Now, there's a line item for the St. Thomas  
21   portion that says, "Profit & Tax Rate, 15%," right?   Do you  
22   see that?

23          **A.**     Correct.

24          **Q.**     Okay.   What portion of that 15 percent is profit?  
25   What portion is tax?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**



**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **A.**     Exact numbers, I can't give you exact numbers.

2                         What -- what do you want me -- I mean, we  
3     know that, for example, like a -- the local tax is  
4     5 percent, so that would come out of there. If I give you  
5     exact numbers. We have insurance. We have background  
6     offices. Is that what you're asking?

7           **Q.**     Well, first, I'm asking, what it says on your  
8     budget breakdown, "Profit & Tax Rate, 15%."

9           **A.**     Yeah.

10          **Q.**     That means 15 percent includes your profit margin,  
11     but it also includes taxes that you have to pay, correct?

12          **A.**     What I would have to pay, correct. Yes.

13          **Q.**     So 15 percent is, therefore, not your profit  
14     margin; it's something less than 15 percent, right?

15          **A.**     Okay. I see what you're saying.

16          **Q.**     Do you agree?

17                         If what you're saying on your budget  
18     breakdown is you have a profit and tax rate of 15 percent,  
19     and you have to pay tax out of that 15 percent, then your  
20     ultimate profit is something less than 15 percent, correct?

21          **A.**     Okay. Yes.

22          **Q.**     You agree with that?

23          **A.**     Correct.

24          **Q.**     All right. And let's look at the next project.

25     That's St. Thomas.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1                   Going to St. Croix. Same thing. It says,  
2       "Profit & Tax Rate, 15%," right?

3           **A.**     Correct.

4           **Q.**     Okay. And so, again, of that 15 percent on this  
5       project, you have to pay taxes out of that amount. So your  
6       profit would actually be something less than 15, right?

7           **A.**     Correct.

8           **Q.**     And we go to the next one.

9                   The cost breakdown - budget estimate for  
10       St. Thomas painting jetty to north mound.

11                   Do you see that?

12          **A.**     Correct.

13          **Q.**     This is Page 6769.

14                   It says, "Profit & Tax Rate, 15%." Same point  
15       would hold here, right?

16          **A.**     Correct.

17          **Q.**     You're telling -- in your budget breakdown for all  
18       this work, you're saying your profit and tax rate is  
19       15 percent. You're going to pay at least 5 percent in tax,  
20       so, therefore, your profit would not exceed 10 percent,  
21       right?

22          **A.**     Correct.

23          **Q.**     Okay. And, in fact, if we look through every  
24       single one of the projects, and your budget breakdown  
25       attached to your interrogatory response, your line item is

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 "Profit & Tax Rate, 15%," right?

2 **A.** Correct.

3 **Q.** Okay. And there's a minimum tax of at least  
4 5 percent, so your profit on all these projects would,  
5 therefore, not exceed 10 percent, correct?

6 **A.** Correct.

7 **Q.** All right.

8 **A.** Now, you understand also my labor. I'm not paying  
9 my labor the full cost there, right? So I have profit off  
10 the labor as well, okay?

11 So there's a billing rate to my -- there's a  
12 billing rate, and there's a cost rate to my labor.

13 **Q.** When you say, "Profit & Tax Rate," let's look.  
14 Let's look at an example. Let's look at the cost  
15 breakdown --

16 **A.** Correct.

17 **Q.** -- for the St. Thomas painting?

18 **A.** Correct.

19 **Q.** Are we on the same page?

20 **A.** Yes.

21 **Q.** 6769?

22 **A.** Right.

23 **Q.** When you calculate your profit and tax rate,  
24 you're at 15 percent --

25 **A.** Um-hum.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**    -- you're calculating on the total, correct?

2           **A.**    Correct.

3           **Q.**    The \$46,000, right?

4           **A.**    That's right.

5           **Q.**    And that includes the charges for your labor,  
6 correct?

7           **A.**    Correct. Yes.

8           **Q.**    So it's calculating your profit rate on the total  
9 amount that you're being paid -- or you're saying you would  
10 have been paid on this project, correct?

11          **A.**    Correct.

12          **Q.**    It's not -- it doesn't exclude labor?

13                   **MS. ROHN:** No, what he's saying -- sorry.

14          **A.**    What I'm saying is, that you guys saw there's a  
15 rate sheet in prior documents, right? A welder gets charged  
16 at, for example, \$45 an hour, right? I'm not paying that  
17 welder \$45 an hour.

18          **Q.**    **(Mr. Kaplan)** How much do you pay your welders?

19          **A.**    \$30 an hour.

20          **Q.**    Okay.

21          **A.**    So I'm making a profit out of that, as well.

22          **Q.**    So what -- on your budget, where it says, "Profit  
23 & Tax Rate," and it's calculated as a percentage of the  
24 total --

25          **A.**    Correct.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**    -- you're saying it excludes the profit you make  
2 on labor?

3           **A.**    No.

4                   **MS. ROHN:** Includes it.

5                   **MR. KAPLAN:** Umm?

6                   **MR. BECKSTEDT:** He's getting profit on  
7 profit.

8                   **MS. ROHN:** He's getting profit on profit.

9           **A.**    Yes, correct.

10                   So my equipment and my material, it is a  
11 cost. Say the material's costing me a thousand bucks, I'm  
12 going to charge him a thousand bucks, plus 15 percent.

13           **Q.**    **(Mr. Kaplan)** Okay.

14           **A.**    So I'm doing profit on profit.

15           **Q.**    Where's your actual labor costs, that you're going  
16 to incur on these projects, reflected?

17           **A.**    Well, that's what I put here, my costs, and then  
18 my profit is over here on this page.

19           **Q.**    But where is the actual calculation, project by  
20 project, of your labor costs?

21                   'Cause, here, you're telling me in all the  
22 budget breakdowns --

23           **A.**    Uh-huh.

24           **Q.**    -- that it's inclusive of your profit?

25           **A.**    Correct.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**    What's the actual cost figure on a project --

2           **A.**    The cost figure total is the second column right  
3 here.

4           **Q.**    Right. But if I want to know what your labor cost  
5 is for each project, that's not reflected anywhere in your  
6 interrogatories in any of these budget breakdowns?

7                   **MS. ROHN:** You need to redo the chart to show  
8 what profits you're making off the labor and the equipment.

9           **A.**    The equipment, absolutely. The equipment is the  
10 cost, and I just have to add 15 percent to it. The only  
11 thing is the labor.

12                   **MS. ROHN:** Okay. Well, then, you have to put  
13 that in your chart.

14           **A.**    Okay. I understand.

15                   **MS. ROHN:** Sorry. I didn't realize that was  
16 the case.

17           **A.**    I'm sorry.

18                   **MS. ROHN:** You have to put down your actual  
19 labor costs and your charged labor cost.

20           **A.**    I understand.

21                   **MS. ROHN:** And you can redepose him on that,  
22 if you want.

23                   **MR. BECKSTEDT:** And equipment, too.

24                   **MS. ROHN:** No -- and your equipment, you're  
25 going to put what you charged for the equipment, and what

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 you paid for the equipment.

2 **A.** Yeah. So we do have an equipment -- for example,  
3 on each invoice, you have, if there's equipment done. If,  
4 for example, it's a scaffold, the cost of the equipment is  
5 on there, and then we just charge 15 percent, which is  
6 included on this. So that's very black and white.

7 So equipment is, we just charge 15 percent.  
8 Material, we just charge 15 percent. If it's just a labor,  
9 that we actually charge -- we actually have a billing rate,  
10 and our --

11 **MS. ROHN:** Okay. So you're going to have  
12 to -- then you're going to have to factor out what the  
13 charge is. What you pay for your labor versus what you  
14 charge for your labor.

15 **A.** I understand.

16 **MR. KAPLAN:** Let's go off the record a  
17 minute?

18 **THE VIDEOGRAPHER:** Going off the record. The  
19 time is 3:03.

20 (Short recess taken.)

21 **THE VIDEOGRAPHER:** Going back on record. The  
22 time is 3:05.

23 **Q. (Mr. Kaplan)** All right. Mr. Melendez, do you  
24 understand, in the second-to-last column in your  
25 Interrogatory Number 10, where it says, "Projected Total

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 Costs," in your projected total costs, you need to provide  
2 for all of your costs, what your actual costs are going to  
3 be --

4 **A.** Okay.

5 **Q.** -- for each item, equipment, labor, materials, et  
6 cetera, so that we can actually determine the full amount of  
7 your claimed loss profit on each project.

8 Do you understand?

9 **A.** I understand.

10 **Q.** You're agreeing, on behalf of Petro, to supplement  
11 your interrogatory response?

12 **A.** Yes.

13 **Q.** Okay. And this -- the attachments, these budget  
14 documents, these were prepared and have dates on the top  
15 when they were prepared, right?

16 **A.** Correct.

17 **Q.** And when you prepare this analysis, you're going  
18 to prepare -- in what form are you going to prepare?  
19 Spreadsheet? How are you going to do this?

20 **A.** If you want, I can just attach to that just what  
21 are labor costs, and then basically profit at the end,  
22 that's fine?

23 **Q.** You do it however you need to do it. I just want  
24 to make sure --

25 **MS. ROHN:** We'll -- we'll meet and confer, so

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**



**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 that -- you and I will, so it's done, so it's easy to  
2 determine.

3 **MR. KAPLAN:** All right.

4 **MS. ROHN:** And I think probably the easiest  
5 thing then would be to give him the -- actually the rate  
6 sheet of what you actually pay the people, and a rate sheet  
7 of what you actually charge for the same person.

8 **A.** Correct.

9 **MS. ROHN:** Okay? Typed. Typed, of course.

10 **Q. (Mr. Kaplan)** Now, your employees are -- are  
11 so-called W-2 employees, right?

12 **A.** Most of them, yes.

13 **Q.** So you pay payroll taxes?

14 **A.** Yes.

15 **Q.** You pay social security taxes?

16 **A.** Correct.

17 **Q.** So when you calculate your labor costs, are you  
18 including the difference between what you're charging, for  
19 example, for a welder and what you're paying a welder, are  
20 you including all of the taxes and benefits that you pay for  
21 the -- that employee?

22 **A.** Of course.

23 **Q.** Okay.

24 **MS. ROHN:** Wait, wait. I think what he's  
25 saying, is your base, when you talk about what your base

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 cost is for the employee, you have to factor in that --  
2 whatever the labor costs are when you're making that chart.

3 **A.** Okay.

4 **MS. ROHN:** Correct?

5 **MR. KAPLAN:** Correct.

6 **A.** Correct.

7 **Q. (Mr. Kaplan)** When you say, "total profit plus tax  
8 of 15 percent" -- excuse me, 5 percent. You're saying of  
9 that 15 percent, you're saying that's profit on top of  
10 whatever profit you're making on the difference between what  
11 you're paying your employees and what you're getting under  
12 the contract, correct?

13 **A.** That's correct.

14 **Q.** And that 5-percent tax, that is the gross receipts  
15 tax that you're talking about?

16 **A.** That's correct.

17 **Q.** Okay.

18 **MS. ROHN:** But that's not including -- but  
19 that wouldn't be -- then, but in your labor costs, you're  
20 going to have to do your -- whatever workmans' comp,  
21 whatever percentage of that.

22 **A.** Insurance.

23 **MR. KAPLAN:** All -- all -- all your taxes and  
24 cost of employment need to be reflected and deducted --

25 **MS. ROHN:** Right.

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1                   **MR. KAPLAN:** -- from whatever you're  
2                   calculating on your profit --

3                   **MS. ROHN:** And you'll probably need an  
4                   accountant to do that.

5                   **Q. (Mr. Kaplan)** Well, that was my question earlier.  
6                   I asked you if you have an accountant, and you said someone  
7                   named Kathleen.

8                   **A.** Correct.

9                   **Q.** And she's an outside accountant?

10                  **A.** Correct.

11                  **Q.** Do you know the name of -- do you know Kathleen's  
12                  last name?

13                  **A.** I can find it. Gallagher. I have to find it on  
14                  my phone. Call her Kat. Sorry.

15                  **Q.** That's all right.

16                  **MS. ROHN:** I bet you -- I bet you, in order  
17                  to be able to calculate what it is, there's some formula for  
18                  that.

19                  **MS. FRANCIS:** Are we on the record, or is  
20                  this off the record?

21                  **MS. ROHN:** We're on the record.

22                  **MS. FRANCIS:** Okay. Mr. Melendez, now we  
23                  need you to speak up. We don't want to have to ask you to  
24                  repeat things, but this is --

25                  **A.** Okay. I apologize. Can you hear me?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1                   **MS. FRANCIS:** That was better, yes.

2           **A.**     Okay.

3                   **MS. FRANCIS:** Please keep your voice up,  
4 because we are still on the record.

5           **A.**     Yes, ma'am.

6                                   (Respite.)

7                   **MR. BECKSTEDT:** I understood there's an  
8 agreement we can reconvene for purposes of questioning  
9 regarding that?

10                   **MS. ROHN:** That one issue, so far.

11           **Q. (Mr. Kaplan)** Okay. Project 21, the stainless  
12 steel bolts.

13                               Do you see that?

14           **A.**     Yes.

15           **Q.**     As I understand it, you sourced the bolts from  
16 Traeger Brothers, but IPOS paid Traeger directly for those  
17 materials, correct?

18           **A.**     I have to verify that. I know that they paid for  
19 some bolts. I don't know if it was particular for this one.  
20 This is an ongoing project that's been going for the last  
21 two years of replacing all the carbon steel bolts with  
22 stainless steel bolts, so I don't know if it was one or the  
23 other. I apologize.

24           **Q.**     If IPOS paid for the materials, you haven't lost  
25 any money on the materials? Your only loss would be a claim

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 for some sort of profit on the labor, correct?

2 **A.** Correct.

3 **Q.** All right. Project 14, a propane vessel  
4 inspection.

5 **A.** Okay.

6 **Q.** You say tank inspection work would have been  
7 awarded on January 1st, 2022, right?

8 **A.** Okay.

9 **Q.** Now, you don't know if any API tank inspections  
10 were done in 2022, do you?

11 **A.** No. I'm not there.

12 **Q.** And it's not a regulatory requirement to do the  
13 API tank inspections every year, right?

14 **A.** So you're right, but what happened is we're  
15 alternating tanks. So each -- each -- each facility, the  
16 one in St. Croix has four tanks. I'm sorry. Has eight  
17 tanks. And the one in St. Thomas has ten tanks. So we were  
18 rotating, because they were already five years past  
19 inspection. So we were rotating each of the tanks. So each  
20 year, we were going to do one on each site. So, yes, it is  
21 important.

22 **Q.** If the API tank inspections were not done in 2022,  
23 you would not have any damages for lost profits on API tank  
24 inspections, correct?

25 **A.** Again, you're asking me if it needed to be done.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 It has to be done.

2 Q. I didn't ask you -- my question was different.

3 If it was not done. If the API tank  
4 inspections were not done in 2022, Petro would have not lost  
5 any profits on that project, correct?

6 A. Correct.

7 Q. All right. And the same is true for any project?

8 A. I was going to say.

9 Q. If a project was not done in 2021 or 2022, Petro  
10 would not have lost any profits on that project, correct?

11 A. Correct.

12 Q. Now, MLA removal, Number 1, actually, we talked  
13 about that. We'll move on.

14 A. Correct.

15 Q. The painting of the control room, Number 6, the  
16 painting of the control room is certainly not required to be  
17 done every year, right?

18 A. So some sort of painting program was to be  
19 implemented. So this was the first one. Well, actually,  
20 not the first one. The last two years, we had a painting  
21 program. So this year was going to be the actual  
22 facility -- I mean, the actual building itself. Before it  
23 was a section of pipe. The year before, it was the actual  
24 pump alley. So, yeah, there is some kind of sort of coating  
25 maintenance that had to be done.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **Q.**    Okay. What about the reverse loading rack? In  
2           addition to the reverse loading rack? That's Project  
3           Number 8, is that what it is? Replacement block valves?

4           **A.**    Correct.

5           **Q.**    And as I understand it, I guess Mr. Canning, do  
6           you recall he recommended some reverse-flow pumps; do you  
7           recall that?

8           **A.**    Yes.

9           **Q.**    Okay. But you understand that Vitol hired a  
10          different engineering firm that determined the reverse-flow  
11          project could be done without a pump installation?

12          **A.**    Again, I was not there.

13          **Q.**    The loading rack could be loaded by gravity?

14          **A.**    Again, I wasn't there.

15          **Q.**    Do you know that the engineering firm Exsol,  
16          actually finalized a different scope of work on the reverse-  
17          loading rack?

18          **A.**    Did not know that.

19          **Q.**    Okay. If the scope of work changed, and was done  
20          by a different engineering contractor on a project, that  
21          would not be damages for Petro, correct?

22          **A.**    Well, we would have still done the actual  
23          installation itself. We would have still been the  
24          contractor to install. This was the engineer that you're  
25          saying that said it wasn't, but there still needed to be

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1 work done.

2 **Q.** But Exsol Engineering firm did the work?

3 **A.** They actually did the work themselves?

4 **Q.** Do you know that?

5 **A.** No.

6 **Q.** Okay. Do you dispute that?

7 **A.** What's that?

8 **Q.** Do you dispute that?

9 **MS. ROHN:** Objection to form.

10 **A.** Actually, wasn't Exsol the company that took over  
11 maintenance for us? They're -- they're from Surinam.  
12 They're the company that took over, so we would have done  
13 the work if we were there for maintenance.

14 **Q. (Mr. Kaplan)** On the reverse-loading rack? A  
15 different scope of work, though, right? You're talking  
16 about on Project 8, was the installation of reverse-flow  
17 pumps, correct?

18 **A.** Correct.

19 **Q.** And if it was a different scope of work where no  
20 pump installation would be required, there would be no  
21 installation work, correct?

22 **A.** You said that Exsol actually did the installation  
23 themselves.

24 **Q.** Not pump installation. Did a different scope of  
25 work on that project.

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**



**PIS, LLC/A. MELENDEZ, JR. -- DIRECT**

1           **A.**     But it's still in the scope of work that we would  
2     have done.

3           **Q.**     It would be different than the scope of work and  
4     estimated cost that you have in your interrogatory, correct?

5           **A.**     I understand. But, again, we would have been  
6     doing the scope of work, if it was different or not.

7           **Q.**     Okay. Just a few more questions, sir.

8                     Did you search your e-mail account for  
9     documents in this case?

10          **A.**     Yes.

11          **Q.**     Okay. We talked earlier. You said you believe  
12     you have an e-mail with Mr. --

13                    **MS. ROHN:** Castro.

14          **Q.**     **(Mr. Kaplan)** -- Castro, right?

15          **A.**     Castro.

16          **Q.**     You're going to look for that e-mail, correct?

17                    **MS. ROHN:** He didn't use Castro as a search,  
18     so --

19          **Q.**     **(Mr. Kaplan)** You're going to look for any e-mails  
20     to or from Mr. Castro, correct?

21          **A.**     Will do.

22          **Q.**     All right. Now, have you produced any e-mail, in  
23     this case, internal to Petro? With any of your supervisors?  
24     Any of your employees? Any internal e-mail at Petro, did  
25     you search for any of those documents?

Susan C. Nissman, RPR-RMR  
(340) 773-8161

**Exhibit I**

**C-E-R-T-I-F-I-C-A-T-E**

I, SUSAN C. NISSMAN, a Registered Merit Reporter and Notary Public for the U.S. Virgin Islands, Christiansted, St. Croix, do hereby certify that the above named witness, **PETRO INDUSTRIAL SOLUTIONS, LLC, through its representative, ADRIAN MELENDEZ, JR., and personally,** was first duly sworn to testify the truth; that said witness did thereupon testify as is set forth; that the answers of said witness to the oral interrogatories propounded by counsel were taken by me in stenotype and thereafter reduced to typewriting under my personal direction and supervision.

I further certify that the facts stated in the caption hereto are true; and that all of the proceedings in the course of the hearing of said deposition are correctly and accurately set forth herein.

I further certify that I am not counsel, attorney or relative of either party, nor financially or otherwise interested in the event of this suit.

IN WITNESS WHEREOF, I have hereunto set my hand as such Registered Merit Reporter on this the 13th day of May, 2023, at Christiansted, St. Croix, United States Virgin Islands.

\_\_\_\_\_/s/ Susan C. Nissman

My Commission Expires:  
June 28, 2023

Susan C. Nissman, RPR-RMR  
NP 234-19